

SENATE, No. 2540

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 8, 2007

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Provides for an extended term of imprisonment, supervision for life and sex offender registration for the crime of human trafficking under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning human trafficking and amending various
2 sections of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read as
8 follows:

9 2. a. (1) A person who has been convicted, adjudicated
10 delinquent or found not guilty by reason of insanity for commission
11 of a sex offense as defined in subsection b. of this section shall
12 register as provided in subsections c. and d. of this section.

13 (2) A person who in another jurisdiction is required to register as
14 a sex offender and (a) is enrolled on a full-time or part-time basis in
15 any public or private educational institution in this State, including
16 any secondary school, trade or professional institution, institution of
17 higher education or other post-secondary school, or (b) is employed
18 or carries on a vocation in this State, on either a full-time or a part-
19 time basis, with or without compensation, for more than 14
20 consecutive days or for an aggregate period exceeding 30 days in a
21 calendar year, shall register in this State as provided in subsections
22 c. and d. of this section. A person who fails to register as required
23 under this act shall be guilty of a crime of the fourth degree.

24 b. For the purposes of this act a sex offense shall include the
25 following:

26 (1) Aggravated sexual assault, sexual assault, aggravated
27 criminal sexual contact, kidnapping pursuant to paragraph (2) of
28 subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these
29 crimes if the court found that the offender's conduct was
30 characterized by a pattern of repetitive, compulsive behavior,
31 regardless of the date of the commission of the offense or the date
32 of conviction;

33 (2) A conviction, adjudication of delinquency, or acquittal by
34 reason of insanity for aggravated sexual assault; sexual assault;
35 aggravated criminal sexual contact; kidnapping pursuant to
36 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the
37 welfare of a child by engaging in sexual conduct which would
38 impair or debauch the morals of the child pursuant to subsection a.
39 of N.J.S.2C:24-4; endangering the welfare of a child pursuant to
40 paragraphs (3) or (4) or subparagraph (a) of paragraph (5) of
41 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to
42 section 1 of P.L.1993, c.291 (C.2C:13-6); human trafficking
43 pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8) if the victim is
44 a minor; criminal sexual contact pursuant to N.J.S.2C:14-3b. if the
45 victim is a minor; kidnapping pursuant to N.J.S.2C:13-1, criminal

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 restraint pursuant to N.J.S.2C:13-2, or false imprisonment pursuant
2 to N.J.S.2C:13-3 if the victim is a minor and the offender is not the
3 parent of the victim; knowingly promoting prostitution of a child
4 pursuant to paragraph (3) or paragraph (4) of subsection b. of
5 N.J.S.2C:34-1; or an attempt to commit any of these enumerated
6 offenses if the conviction, adjudication of delinquency or acquittal
7 by reason of insanity is entered on or after the effective date of this
8 act or the offender is serving a sentence of incarceration, probation,
9 parole or other form of community supervision as a result of the
10 offense or is confined following acquittal by reason of insanity or as
11 a result of civil commitment on the effective date of this act;

12 (3) A conviction, adjudication of delinquency or acquittal by
13 reason of insanity for an offense similar to any offense enumerated
14 in paragraph (2) or a sentence on the basis of criteria similar to the
15 criteria set forth in paragraph (1) of this subsection entered or
16 imposed under the laws of the United States, this State or another
17 state.

18 c. A person required to register under the provisions of this act
19 shall do so on forms to be provided by the designated registering
20 agency as follows:

21 (1) A person who is required to register and who is under
22 supervision in the community on probation, parole, furlough, work
23 release, or a similar program, shall register at the time the person is
24 placed under supervision or no later than 120 days after the
25 effective date of this act, whichever is later, in accordance with
26 procedures established by the Department of Corrections, the
27 Department of Human Services, the Juvenile Justice Commission
28 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
29 or the Administrative Office of the Courts, whichever is responsible
30 for supervision;

31 (2) A person confined in a correctional or juvenile facility or
32 involuntarily committed who is required to register shall register
33 prior to release in accordance with procedures established by the
34 Department of Corrections, the Department of Human Services or
35 the Juvenile Justice Commission;

36 (3) A person moving to or returning to this State from another
37 jurisdiction shall register with the chief law enforcement officer of
38 the municipality in which the person will reside or, if the
39 municipality does not have a local police force, the Superintendent
40 of State Police within 120 days of the effective date of this act or 10
41 days of first residing in or returning to a municipality in this State,
42 whichever is later;

43 (4) A person required to register on the basis of a conviction
44 prior to the effective date who is not confined or under supervision
45 on the effective date of this act shall register within 120 days of the
46 effective date of this act with the chief law enforcement officer of
47 the municipality in which the person will reside or, if the

1 municipality does not have a local police force, the Superintendent
2 of State Police;

3 (5) A person who in another jurisdiction is required to register as
4 a sex offender and who is enrolled on a full-time or part-time basis
5 in any public or private educational institution in this State,
6 including any secondary school, trade or professional institution,
7 institution of higher education or other post-secondary school shall,
8 within ten days of commencing attendance at such educational
9 institution, register with the chief law enforcement officer of the
10 municipality in which the educational institution is located or, if the
11 municipality does not have a local police force, the Superintendent
12 of State Police;

13 (6) A person who in another jurisdiction is required to register as
14 a sex offender and who is employed or carries on a vocation in this
15 State, on either a full-time or a part-time basis, with or without
16 compensation, for more than 14 consecutive days or for an
17 aggregate period exceeding 30 days in a calendar year, shall, within
18 ten days after commencing such employment or vocation, register
19 with the chief law enforcement officer of the municipality in which
20 the employer is located or where the vocation is carried on, as the
21 case may be, or, if the municipality does not have a local police
22 force, the Superintendent of State Police;

23 (7) In addition to any other registration requirements set forth in
24 this section, a person required to register under this act who is
25 enrolled at, employed by or carries on a vocation at an institution of
26 higher education or other post-secondary school in this State shall,
27 within ten days after commencing such attendance, employment or
28 vocation, register with the law enforcement unit of the educational
29 institution, if the institution has such a unit.

30 d. Upon a change of address, a person shall notify the law
31 enforcement agency with which the person is registered and shall
32 re-register with the appropriate law enforcement agency no less
33 than 10 days before he intends to first reside at his new address.
34 Upon a change of employment or school enrollment status, a person
35 shall notify the appropriate law enforcement agency no later than
36 five days after any such change. A person who fails to notify the
37 appropriate law enforcement agency of a change of address or status
38 in accordance with this subsection is guilty of a crime of the fourth
39 degree.

40 e. A person required to register under paragraph (1) of subsection
41 b. of this section or under paragraph (3) of subsection b. due to a
42 sentence imposed on the basis of criteria similar to the criteria set
43 forth in paragraph (1) of subsection b. shall verify his address with
44 the appropriate law enforcement agency every 90 days in a manner
45 prescribed by the Attorney General. A person required to register
46 under paragraph (2) of subsection b. of this section or under
47 paragraph (3) of subsection b. on the basis of a conviction for an
48 offense similar to an offense enumerated in paragraph (2) of

1 subsection b. shall verify his address annually in a manner
2 prescribed by the Attorney General. One year after the effective
3 date of this act, the Attorney General shall review, evaluate and, if
4 warranted, modify pursuant to the "Administrative Procedure Act,"
5 P.L.1968, c.410 (C.52:14B-1 et seq.) the verification requirement.

6 f. Except as provided in subsection g. of this section, a person
7 required to register under this act may make application to the
8 Superior Court of this State to terminate the obligation upon proof
9 that the person has not committed an offense within 15 years
10 following conviction or release from a correctional facility for any
11 term of imprisonment imposed, whichever is later, and is not likely
12 to pose a threat to the safety of others.

13 g. A person required to register under this section who has been
14 convicted of, adjudicated delinquent, or acquitted by reason of
15 insanity for more than one sex offense as defined in subsection b. of
16 this section or who has been convicted of, adjudicated delinquent,
17 or acquitted by reason of insanity for aggravated sexual assault
18 pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault
19 pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not
20 eligible under subsection f. of this section to make application to
21 the Superior Court of this State to terminate the registration
22 obligation.

23 (cf: P.L. 2003, c.220,s. 1)

24

25 2. Section 1 of P.L.2005, c.77 (C.2C:13-8) is amended to read as
26 follows:

27 1. Human trafficking. a. A person commits the crime of human
28 trafficking if he :

29 (1) knowingly holds, recruits, lures, entices, harbors, transports,
30 provides or obtains, by any means, another, to engage in sexual
31 activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-
32 1 or to provide labor or services:

33 (a) by threats of serious bodily harm or physical restraint against
34 the person or any other person;

35 (b) by means of any scheme, plan or pattern intended to cause
36 the person to believe that the person or any other person would
37 suffer serious bodily harm or physical restraint;

38 (c) by committing a violation of N.J.S.2C:13-5 against the
39 person; or

40 (d) by destroying, concealing, removing, confiscating, or
41 possessing any passport, immigration-related document as defined
42 in section 1 of P.L.1997, c.1 (C.2C:21-31), or other document
43 issued by a governmental agency to any person which could be used
44 as a means of verifying the person's identity or age or any other
45 personal identifying information; or

46 (e) by means of the abuse or threatened abuse of the law or legal
47 process; or

1 (2) receives anything of value from participation as an organizer,
2 supervisor, financier or manager in a scheme or course of conduct
3 which violates paragraph (1) of this subsection.

4 b. An offense under this section constitutes a crime of the first
5 degree.

6 c. It is an affirmative defense to prosecution for a violation of
7 this section that, during the time of the alleged commission of the
8 offense of human trafficking created by this section, the defendant
9 was a victim of human trafficking.

10 d. Notwithstanding the provisions of N.J.S.2C:43-6, the term of
11 imprisonment imposed for a crime of the first degree under
12 【paragraph (2) of subsection a.】 this section shall be either a term
13 of 20 years during which the actor shall not be eligible for parole,
14 or a specific term between 20 years and life imprisonment, of which
15 the actor shall serve 20 years before being eligible for parole. If the
16 victim of the crime is a minor, the defendant shall be sentenced to
17 an extended term of imprisonment as set forth in paragraph (8) of
18 subsection a. in N.J.S.2C:43-7. It shall be no defense to a
19 prosecution under this paragraph that the actor mistakenly believed
20 that the minor was 18 years of age or older, even if such mistaken
21 belief was reasonable.

22 Notwithstanding the provisions of N.J.S.2C:1-8 or any other law,
23 a conviction under this section shall not merge with a conviction of
24 any other criminal offense, nor shall such other conviction merge
25 with a conviction under this section, and the court shall impose
26 separate sentences upon each violation of this section and any
27 other criminal offense. The court may not suspend or make any
28 other non-custodial disposition of any person sentenced pursuant to
29 this section. Nothing contained in this section shall be construed in
30 any way to preclude or limit the prosecution or conviction of any
31 person for conspiracy under N.J.S.2C:5-2, or any prosecution or
32 conviction for any other offense.

33 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-
34 3, a fine of up to \$500,000 may be imposed.

35 e. In addition to any other disposition authorized by law, any
36 person who violates the provisions of this section shall be sentenced
37 to make restitution to any victim. The court shall award to the
38 victim restitution which is the greater of:

39 (1) the gross income or value to the defendant of the victim's
40 labor or services; or

41 (2) the value of the victim's labor or services as determined by
42 the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-
43 56.25 et seq.), the "New Jersey State Wage and Hour Law,"
44 P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal Farm Labor
45 Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws concerning the
46 regulation of child labor in chapter 2 of Title 34 of the Revised
47 Statutes, or any other applicable State law, and the "Fair Labor

1 Standards Act of 1938," 29 U.S.C. s.201 et seq. or any other
2 applicable federal law.
3 (cf: P.L.2005, c.77, s.1)
4

5 3. Section 2 of P.L. 1994, c.130 (C.2C:43-6.4) is amended to
6 read as follows:

7 2. a. Notwithstanding any provision of law to the contrary, a
8 judge imposing sentence on a person who has been convicted of
9 aggravated sexual assault, sexual assault, aggravated criminal
10 sexual contact, kidnapping pursuant to paragraph (2) of subsection
11 c. of N.J.S.2C:13-1, human trafficking pursuant to section 1 of P.L.
12 205, c.77 (C.2C:13-8) if the victim was a minor, endangering the
13 welfare of a child by engaging in sexual conduct which would
14 impair or debauch the morals of the child pursuant to subsection a.
15 of N.J.S.2C:24-4, endangering the welfare of a child pursuant to
16 paragraph (3) of subsection b. of N.J.S.2C:24-4, luring or an
17 attempt to commit any of these offenses shall include, in addition to
18 any sentence authorized by this Code, a special sentence of parole
19 supervision for life.

20 b. The special sentence of parole supervision for life required by
21 this section shall commence immediately upon the defendant's
22 release from incarceration. If the defendant is serving a sentence of
23 incarceration for another offense at the time he completes the
24 custodial portion of the sentence imposed on the present offense,
25 the special sentence of parole supervision for life shall not
26 commence until the defendant is actually released from
27 incarceration for the other offense. Persons serving a special
28 sentence of parole supervision for life shall remain in the legal
29 custody of the Commissioner of Corrections, shall be supervised by
30 the Division of Parole of the State Parole Board, shall be subject to
31 the provisions and conditions set forth in subsection c. of section 3
32 of P.L.1997, c.117 (C.30:4-123.51b) and sections 15 through 19 and
33 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.63 and
34 30:4-123.65), and shall be subject to conditions appropriate to
35 protect the public and foster rehabilitation. If the defendant violates
36 a condition of a special sentence of parole supervision for life, the
37 defendant shall be subject to the provisions of sections 16 through
38 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63
39 and 30:4-123.65), and for the purpose of calculating the limitation
40 on time served pursuant to section 21 of P.L.1979, c.441 (C.30:4-
41 123.65) the custodial term imposed upon the defendant related to the
42 special sentence of parole supervision for life shall be deemed to be
43 a term of life imprisonment. When the court suspends the
44 imposition of sentence on a defendant who has been convicted of
45 any offense enumerated in subsection a. of this section, the court
46 may not suspend imposition of the special sentence of parole
47 supervision for life, which shall commence immediately, with the
48 Division of Parole of the State Parole Board maintaining

1 supervision over that defendant, including the defendant's
2 compliance with any conditions imposed by the court pursuant to
3 N.J.S.2C:45-1, in accordance with the provisions of this subsection.
4 Nothing contained in this subsection shall prevent the court from at
5 any time proceeding under the provisions of N.J.S.2C:45-1 through
6 2C:45-4 against any such defendant for a violation of any
7 conditions imposed by the court when it suspended imposition of
8 sentence, or prevent the Division of Parole from proceeding under
9 the provisions of sections 16 through 19 and 21 of P.L.1979, c.441
10 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) against any
11 such defendant for a violation of any conditions of the special
12 sentence of parole supervision for life, including the conditions
13 imposed by the court pursuant to N.J.S.2C:45-1. In any such
14 proceeding by the Division of Parole, the provisions of subsection
15 c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) authorizing
16 revocation and return to prison shall be applicable to such a
17 defendant, notwithstanding that the defendant may not have been
18 sentenced to or served any portion of a custodial term for
19 conviction of an offense enumerated in subsection a. of this section.

20 c. A person sentenced to a term of parole supervision for life
21 may petition the Superior Court for release from that parole
22 supervision. The judge may grant a petition for release from a
23 special sentence of parole supervision for life only upon proof by
24 clear and convincing evidence that the person has not committed a
25 crime for 15 years since the last conviction or release from
26 incarceration, whichever is later, and that the person is not likely to
27 pose a threat to the safety of others if released from parole
28 supervision. Notwithstanding the provisions of section 22 of
29 P.L.1979, c.441 (C.30:4-123.66), a person sentenced to a term of
30 parole supervision for life may be released from that parole
31 supervision term only by court order as provided in this subsection.

32 d. A person who violates a condition of a special sentence
33 imposed pursuant to this section without good cause is guilty of a
34 crime of the fourth degree. Notwithstanding any other law to the
35 contrary, a person sentenced pursuant to this subsection shall be
36 sentenced to a term of imprisonment, unless the court is clearly
37 convinced that the interests of justice so far outweigh the need to
38 deter this conduct and the interest in public safety that a sentence to
39 imprisonment would be a manifest injustice. Nothing in this
40 subsection shall preclude subjecting a person who violates any
41 condition of a special sentence of parole supervision for life to the
42 provisions of sections 16 through 19 and 21 of P.L.1979, c.441
43 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) pursuant to
44 the provisions of subsection c. of section 3 of P.L.1997, c.117
45 (C.30:4-123.51b).

46 e. A person who, while serving a special sentence of parole
47 supervision for life imposed pursuant to this section, commits a
48 violation of N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:11-5,

1 subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, N.J.S.2C:13-6,
2 N.J.S.2C:14-2, N.J.S.2C:14-3, N.J.S.2C:24-4, N.J.S.2C:18-2 when
3 the offense is a crime of the second degree, section 1 of P.L.2005,
4 c.77 (C.2C:13-8) if the victim is a minor or subsection a. of
5 N.J.S.2C:39-4 shall be sentenced to an extended term of
6 imprisonment as set forth in N.J.S.2C:43-7, which term shall,
7 notwithstanding the provisions of N.J.S.2C:43-7 or any other law,
8 be served in its entirety prior to the person's resumption of the term
9 of parole supervision for life.
10 (cf: P.L.2003, c.267, s.1)

11

12 4. N.J.S.2C:43-7 is amended to read as follows:

13 2C:43-7. Sentence of Imprisonment for Crime; Extended Terms.

14 a. In the cases designated in section 2C:44-3, a person who has
15 been convicted of a crime may be sentenced, and in the cases
16 designated in subsection e. of section 2 of P.L.1994, c.130
17 (C.2C:43-6.4), in subsection b. of section 2 of P.L.1995, c.126
18 (C.2C:43-7.1) and in the cases designated in section 1 of P.L.1997,
19 c.410 (C.2C:44-5.1), a person who has been convicted of a crime
20 shall be sentenced, to an extended term of imprisonment, as
21 follows:

22 (1) In case of aggravated manslaughter sentenced under
23 subsection c. of N.J.S.2C:11-4; or kidnapping when sentenced as a
24 crime of the first degree under paragraph (1) of subsection c. of
25 2C:13-1; or aggravated sexual assault if the person is eligible for an
26 extended term pursuant to the provisions of subsection g. of
27 N.J.S.2C:44-3 for a specific term of years which shall be between
28 30 years and life imprisonment;

29 (2) Except for the crime of murder and except as provided in
30 paragraph (1) of this subsection, in the case of a crime of the first
31 degree, for a specific term of years which shall be fixed by the court
32 and shall be between 20 years and life imprisonment;

33 (3) In the case of a crime of the second degree, for a term which
34 shall be fixed by the court between 10 and 20 years;

35 (4) In the case of a crime of the third degree, for a term which
36 shall be fixed by the court between five and 10 years;

37 (5) In the case of a crime of the fourth degree pursuant to 2C:43-
38 6c, 2C:43-6g and 2C:44-3d for a term of five years, and in the case
39 of a crime of the fourth degree pursuant to any other provision of
40 law for a term which shall be fixed by the court between three and
41 five years;

42 (6) In the case of the crime of murder, for a specific term of
43 years which shall be fixed by the court between 35 years and life
44 imprisonment, of which the defendant shall serve 35 years before
45 being eligible for parole;

46 (7) In the case of kidnapping under paragraph (2) of subsection
47 c. of 2C:13-1, for a specific term of years which shall be fixed by

1 the court between 30 years and life imprisonment, of which the
2 defendant shall serve 30 years before being eligible for parole;

3 (8) In the case of human trafficking in violation of section 1 of
4 P.L. 2005, c.77 (C.2C:13-8) if the victim was a minor, for a specific
5 term of years which shall be fixed by the court between 30 years
6 and life imprisonment, of which the defendant shall serve 30 years
7 before being eligible for parole.

8 b. As part of a sentence for an extended term and
9 notwithstanding the provisions of 2C:43-9, the court may fix a
10 minimum term not to exceed one-half of the term set pursuant to
11 subsection a. during which the defendant shall not be eligible for
12 parole or a term of 25 years during which time the defendant shall
13 not be eligible for parole where the sentence imposed was life
14 imprisonment; provided that no defendant shall be eligible for
15 parole at a date earlier than otherwise provided by the law
16 governing parole.

17 c. In the case of a person sentenced to an extended term
18 pursuant to 2C:43-6c, 2C:43-6f and 2C:44-3d, the court shall
19 impose a sentence within the ranges permitted by 2C:43-7a(2), (3),
20 (4) or (5) according to the degree or nature of the crime for which
21 the defendant is being sentenced, which sentence shall include a
22 minimum term which shall, except as may be specifically provided
23 by N.J.S.2C:43-6f, be fixed at or between one-third and one-half of
24 the sentence imposed by the court or five years, whichever is
25 greater, during which the defendant shall not be eligible for parole.
26 Where the sentence imposed is life imprisonment, the court shall
27 impose a minimum term of 25 years during which the defendant
28 shall not be eligible for parole, except that where the term of life
29 imprisonment is imposed on a person convicted for a violation of
30 N.J.S.2C:35-3, the term of parole ineligibility shall be 30 years.

31 d. In the case of a person sentenced to an extended term
32 pursuant to N.J.S.2C:43-6g, the court shall impose a sentence
33 within the ranges permitted by N.J.S.2C:43-7a(2), (3), (4) or (5)
34 according to the degree or nature of the crime for which the
35 defendant is being sentenced, which sentence shall include a
36 minimum term which shall be fixed at 15 years for a crime of the
37 first or second degree, eight years for a crime of the third degree, or
38 five years for a crime of the fourth degree during which the
39 defendant shall not be eligible for parole. Where the sentence
40 imposed is life imprisonment, the court shall impose a minimum
41 term of 25 years during which the defendant shall not be eligible for
42 parole, except that where the term of life imprisonment is imposed
43 on a person convicted of a violation of N.J.S.2C:35-3, the term of
44 parole eligibility shall be 30 years.

45 (cf: P.L.2003, c.267, s.4)

46
47 5. N.J.S. 2C:44-3 is amended to read as follows:

1 2C:44-3. Criteria for Sentence of Extended Term of
2 Imprisonment.

3 The court may, upon application of the prosecuting attorney,
4 sentence a person who has been convicted of a crime of the first,
5 second or third degree to an extended term of imprisonment if it
6 finds one or more of the grounds specified in subsection a., b., c., or
7 f. of this section. If the grounds specified in subsection d. are found,
8 and the person is being sentenced for commission of any of the
9 offenses enumerated in N.J.S.2C:43-6c. or N.J.S.2C:43-6g., the
10 court shall sentence the defendant to an extended term as required
11 by N.J.S.2C:43-6c. or N.J.S.2C:43-6g., and application by the
12 prosecutor shall not be required. The court shall, upon application
13 of the prosecuting attorney, sentence a person who has been
14 convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 to an
15 extended term of imprisonment if the grounds specified in
16 subsection g. of this section are found. The court shall, upon
17 application of the prosecuting attorney, sentence a person who has
18 been convicted of a crime to an extended term of imprisonment if
19 the grounds specified in subsection h. of this section are found. The
20 court shall, upon application of the prosecuting attorney, sentence a
21 person to an extended term if the imposition of such term is
22 required pursuant to the provisions of section 2 of P.L.1994, c.130
23 (C.2C:43-6.4). The court shall, upon application of the prosecuting
24 attorney, sentence a person to an extended term if the grounds
25 specified in subsection i. of this section are found. The finding of
26 the court shall be incorporated in the record.

27 a. The defendant has been convicted of a crime of the first,
28 second or third degree and is a persistent offender. A persistent
29 offender is a person who at the time of the commission of the crime
30 is 21 years of age or over, who has been previously convicted on at
31 least two separate occasions of two crimes, committed at different
32 times, when he was at least 18 years of age, if the latest in time of
33 these crimes or the date of the defendant's last release from
34 confinement, whichever is later, is within 10 years of the date of the
35 crime for which the defendant is being sentenced.

36 b. The defendant has been convicted of a crime of the first,
37 second or third degree and is a professional criminal. A
38 professional criminal is a person who committed a crime as part of
39 a continuing criminal activity in concert with two or more persons,
40 and the circumstances of the crime show he has knowingly devoted
41 himself to criminal activity as a major source of livelihood.

42 c. The defendant has been convicted of a crime of the first,
43 second or third degree and committed the crime as consideration for
44 the receipt, or in expectation of the receipt, of anything of pecuniary
45 value the amount of which was unrelated to the proceeds of the
46 crime or he procured the commission of the offense by payment or
47 promise of payment of anything of pecuniary value.

1 d. Second offender with a firearm. The defendant is at least 18
2 years of age and has been previously convicted of any of the
3 following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-
4 2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or has been
5 previously convicted of an offense under Title 2A of the New
6 Jersey Statutes or under any statute of the United States or any other
7 state which is substantially equivalent to the offenses enumerated in
8 this subsection and he used or possessed a firearm, as defined in
9 2C:39-1f., in the course of committing or attempting to commit any
10 of these crimes, including the immediate flight therefrom.

11 e. (Deleted by amendment, P.L.2001, c.443).

12 f. The defendant has been convicted of a crime under any of the
13 following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1,
14 N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2,
15 N.J.S.2C:29-2b., N.J.S.2C:29-5, N.J.S.2C:35-5, and in the course of
16 committing or attempting to commit the crime, including the
17 immediate flight therefrom, the defendant used or was in possession
18 of a stolen motor vehicle.

19 g. The defendant has been convicted of a crime under
20 N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of
21 violence and the victim of the crime was 16 years of age or less.

22 For purposes of this subsection, a crime involves violence or the
23 threat of violence if the victim sustains serious bodily injury as
24 defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with
25 and uses a deadly weapon or threatens by word or gesture to use a
26 deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or
27 threatens to inflict serious bodily injury.

28 h. The crime was committed while the defendant was knowingly
29 involved in criminal street gang related activity. A crime is
30 committed while the defendant was involved in criminal street gang
31 related activity if the crime was committed for the benefit of, at the
32 direction of, or in association with a criminal street gang. "Criminal
33 street gang" means three or more persons associated in fact.
34 Individuals are associated in fact if (1) they have in common a
35 group name or identifying sign, symbol, tattoo or other physical
36 marking, style of dress or use of hand signs or other indicia of
37 association or common leadership, and (2) individually or in
38 combination with other members of a criminal street gang, while
39 engaging in gang related activity, have committed, conspired or
40 attempted to commit, within the preceding three years, two or more
41 offenses of robbery, carjacking, aggravated assault, assault,
42 aggravated sexual assault, sexual assault, arson, burglary,
43 kidnapping, extortion, or a violation of chapter 11, section 3, 4, 5, 6
44 or 7 of chapter 35 or chapter 39 of Title 2C of the New Jersey
45 Statutes regardless of whether the prior offenses have resulted in
46 convictions.

47 The court shall not impose a sentence pursuant to this subsection
48 unless the ground therefore has been established by a

1 preponderance of the evidence established at a hearing, which may
2 occur at the time of sentencing. In making its finding, the court
3 shall take judicial notice of any testimony or information adduced at
4 the trial, plea hearing or other court proceedings and also shall
5 consider the presentence report and any other relevant information.

6 i. The defendant has been convicted of a crime under section 1
7 of P.L. 2005, c.77 (C. 2C:13-8) if the victim of the crime was a
8 minor.

9 (cf: P.L.2001, c.443, s.8)

10
11 6. This act shall take effect immediately.

12
13
14 STATEMENT

15
16 This bill would provide for a mandatory term of imprisonment
17 and increase the fine for the crime of human trafficking. In addition,
18 this bill would provide for an extended term of imprisonment,
19 registration under “Megan’s Law,” and parole supervision for life if
20 the victim is a minor.

21 The new crime of human trafficking was established in 2005
22 pursuant to P.L.2005, c.77. Human trafficking is a crime of the first
23 degree which carries a term of imprisonment of 10-20 years, a fine
24 of up to \$200,000 or both. Currently, this law provides for a
25 mandatory term of imprisonment of 20 years during which time the
26 defendant would not be eligible for parole, or a specific term
27 between 20 years and life imprisonment, of which the defendant
28 would serve 20 years before being eligible for parole if the
29 defendant participated in the human trafficking scheme as an
30 organizer, supervisor, financier or manager.

31 This bill would eliminate this qualification for the mandatory
32 term of imprisonment and provide for a mandatory minimum term
33 imprisonment for the crime of human trafficking regardless of
34 whether the defendant acted as an organizer, supervisor, financier or
35 manager. The bill would also provide for an extended term of
36 imprisonment if the victim was a minor. The bill would provide that
37 a conviction for human trafficking would not merge with a
38 conviction for any other criminal offense. In addition, the bill would
39 increase the fine to \$500,000. (*See: Section 2 of the bill*).

40 This bill would also amend “Megan’s law,” N.J.S.A.2C:7-2 to
41 require persons convicted of human trafficking when the victim is a
42 minor to register as a sex offender. (*See: Section 1 of the bill*).

43 The bill would amend N.J.S.A.2C:43-6.4 to authorize a judge
44 who is imposing a sentence on a person who has been convicted of
45 human trafficking when the victim is a minor to include, in addition
46 to the term of incarceration, a special sentence of parole supervision
47 for life. In addition, the bill would add human trafficking when the
48 victim is a minor to the list of enumerated crimes which if

1 committed by a person while serving a special sentence of parole
2 supervision for life would trigger an extended term of
3 imprisonment, provided an application has been made by the
4 prosecutor. (*See: Section 3 of the bill*).

5 The bill would also amend N.J.S.A.2C:43-7 and N.J.S.A.2C:44-3
6 to provide for the extended term for human trafficking when the
7 victim is a minor which would be fixed between 30 years and life
8 imprisonment, of which the defendant would serve 30 years before
9 being eligible for parole. This extended term provision is similar to
10 the current extended term for kidnapping. (*See: Sections 4 and 5 of*
11 *the bill*).